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From:

Sent: Monday, June 11, 2012 4:10:34 PM

To:

Cc:

Subject: RE:

I agree that compliance has the discretion to accept a Form 870-PT from only the partner spouse. This will allow assessment against the signing spouse. It will also result in the other spouse's items converting to nonpartnership items so that the nonsigning spouse will no longer be subject to the TEFRA procedures under Calloway v. Commissioner, 231 F.3d 106, 107 (2nd Cir. 2000). The Calloway rule does not apply, however, where the nonsigning spouse owns a separate interest in the partnership. In that situation the nonsigning spouse's items do not convert under Dubin v. Commissioner, 99 T.C. 325 (1992) and the regulation that adopt the Dubin holding for this situation. Treas. Reg. 301.6231(a)(12)-1.

The TMP's settlement can be for himself and all other partners that he can bind. His spouse would not be covered unless she also signs.